

**UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF NEW YORK**

Case Management  
***CM / ECF***  
Electronic Case Files

***STARTER KIT***

December, 2002

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# CM / ECF

## Attorneys and CM/ECF U.S. Bankruptcy Court Western District of New York

Case Management/Electronic Case Files (CM/ECF) is the new automated case management and electronic docketing system for the U.S. Bankruptcy Court, Western District of New York. CM/ECF provides a new, easy-to-use electronic case filing feature that will make life easier for you by allowing you to file and view court documents over the Internet.

### What Does CM/ECF Offer?

CM/ECF will allow attorneys to file and view documents from their office, home or anywhere they have access to the Internet, 24 hours a day. Documents are automatically docketed as part of the filing process and are immediately available electronically. CM/ECF also provides the following benefits:

- 24-hour access to filed documents over the Internet
- Automatic email notice of case activity
- The ability to download and print documents directly from the court system
- Concurrent access to case files by multiple parties
- Secure storage of documents (so files are not misplaced)
- Potential reduction in courier fees

### What Do I Need to Use CM/ECF?

- A personal computer running a standard platform such as Windows or Macintosh

- Word processing software
- Internet access and a browser. The system has been certified with Netscape and is being tested with Internet Explorer
- Software to convert documents into PDF
- Scanning equipment may be useful

### How Does it Work?

The electronic case files system accepts documents in a portable document format (PDF). PDF retains the way a document looks, so the pages, fonts and other formatting are preserved. Filing a document with the court's CM/ECF system is quite easy:

- Create the document using word processing software.
- Save the document in PDF format.
- Log onto the court's CM/ECF system, using a court-issued login and password.
- Follow the set of simple prompts to provide information about the case, party and document to be filed.
- Attach the PDF document and submit it to the court for filing (by pressing a submit button).
- Save or print the CM/ECF electronic receipt emailed from the court confirming that the document was filed.

### **Are There Fees?**

There are no added fees for filing documents over the Internet using CM/ECF; existing document filing fees do apply. Electronic access to court data is available through the Public Access to Court Electronic Records (PACER) program. Attorneys and litigants receive one free copy of documents filed electronically in their cases; additional copies are available for viewing or downloading at seven cents per page. Directed by Congress to fund electronic access through user fees, the judiciary has set the fee at the lowest possible level sufficient to recoup program costs.

### **How will I Sign Documents?**

The court will issue logins and passwords. Using your login and password to file a document is considered to be your signature. Applications for a login and password will be available in Spring, 2003 at our public counter and on our Internet site.

### **How Secure is CM/ECF?**

CM/ECF has many security features and has passed an evaluation by the National Security Agency. Access to the system is through a court issued login and password.

### **When is CM/ECF Coming to This Court?**

Spring, 2003

### **What Kind of Training will be Provided?**

Computer based training modules (CBTs) are available over the Internet at our web-site: [www.nywb.uscourts.gov](http://www.nywb.uscourts.gov). Attorney training classes will be offered in Spring, 2003. The training schedule and registration information will be posted to our web-site. It is anticipated that CLE credit will be offered.

### **Information**

Information and updates will be available on our internet site: [www.nywb.uscourts.gov](http://www.nywb.uscourts.gov) or by contacting:

General Information: Michelle A. Pierce  
716-551-4130

Paul R. Warren  
716-551-4130 (B)  
585-263-3148 (R)

Training: Jane P. Murphy  
585-263-3148

Technical: Jeffrey Brown  
716-551-4130

Peter Fountain  
585-263-3148

CASE MANAGEMENT/ELECTRONIC CASE FILES (CM/ECF) FACT SHEET  
NOVEMBER 2002

The federal judiciary is now well underway with the nationwide implementation of its new Case Management/Electronic Case Files (CM/ECF) systems. CM/ECF not only replaces the courts' aging electronic docketing and case management systems, but also provides courts the option to have case file documents in electronic format, and to accept filings over the Internet.

CM/ECF systems are now in use in ten district courts, forty bankruptcy courts, and the Court of International Trade. Most of these courts are accepting electronic filings. More than 3 million cases with more than 14 million documents are on CM/ECF systems. And more than 20,000 attorneys and others have filed documents over the Internet. Under current plans, the number of CM/ECF courts will increase steadily each month into 2005. Each court goes through an implementation process that takes about 10 months.

Attorneys practicing in courts offering the electronic filing capability are able to file documents directly with the court over the Internet. The CM/ECF system uses standard computer hardware, an Internet connection and a browser, and accepts documents in Portable Document Format (PDF). The system is easy to use – filers prepare a document using conventional word processing software, then save it as a PDF file. After logging onto the court's web site with a court-issued password, the filer enters basic information relating to the case and document being filed, attaches the document, and submits it to the court. A notice verifying court receipt of the filing is generated automatically. Other parties in the case then automatically receive e-mail notification of the filing.

CM/ECF also provides courts the ability to make their documents available to the public over the Internet. The Judicial Conference has adopted a set of recommendations relating to privacy and public access to electronic case files. As part of the process to develop these recommendations, public comment was sought on a number of possible approaches. The Judicial Conference's Committee on Court Administration and Case Management is overseeing implementation of the recommendations.

There are no added fees for filing documents over the Internet using CM/ECF; existing document filing fees do apply. Electronic access to court data is available through the Public Access to Court Electronic Records (PACER) program. Litigants receive one free copy of documents filed electronically in their cases, which they can save or print for their files. Additional copies are available to attorneys and the general public for viewing or downloading at seven cents per page, with a maximum cost per document of \$2.10. Directed by Congress to find electronic access through user fees, the judiciary has set the fee at the lowest possible level sufficient to recoup program costs.

The national roll-out of the CM/ECF system for bankruptcy courts started in early 2001, and is scheduled to take two to three years. The CM/ECF system for district courts began to roll out nationally in May 2002. Implementation of the CM/ECF system for appellate courts is currently scheduled to begin in late 2004.

For more information, please contact: Karen Redmond, Office of Public Affairs (202) 502-2600

Relevant websites:

<http://www.uscourts.gov/cmecf/cmecf.html>

<http://www.privacy.uscourts.gov/>

**Courts Currently Operational on CM/ECF**

*\* Courts Accepting Electronic Filing*

District Courts

California Northern\*  
District of Columbia\*  
Indiana Southern\*  
Michigan Western\*  
Missouri Western\*  
Nebraska\*  
New York Eastern\*  
Ohio Northern\*  
Oregon\*  
Pennsylvania Eastern\*  
  
Court of International Trade

Bankruptcy Courts

Alabama Middle\*  
Alabama Southern\*  
Alaska\*  
Arizona\*  
Arkansas\*  
California Southern\*  
Colorado  
Delaware\*  
Georgia Northern\*  
Illinois Southern\*  
Indiana Northern\*  
Iowa Northern\*  
Kentucky Eastern\*  
Kentucky Western\*  
Louisiana Eastern\*  
Louisiana Middle\*  
Louisiana Western\*  
Maine\*  
Missouri Western\*  
Montana

Nebraska\*  
Nevada  
New Hampshire\*  
New Jersey\*  
New York Eastern\*  
New York Southern\*  
North Carolina Western\*  
Ohio Northern  
Pennsylvania Eastern  
Pennsylvania Western  
South Dakota\*  
Texas Eastern\*  
Texas Southern\*  
Texas Western\*  
Utah  
Vermont\*  
Virginia Eastern\*  
Washington Western\*  
Wisconsin Western\*  
Wyoming

## Courts Currently in the Process of Implementing CM/ECF

### District Courts

Alabama Southern  
California Central  
Connecticut  
Illinois Northern  
Iowa Northern  
Kansas  
Kentucky Eastern  
Kentucky Western  
Massachusetts  
Maryland  
Maine  
Missouri Eastern  
New York Southern  
New York Western  
Ohio Southern  
Oklahoma Western  
Pennsylvania Middle  
South Dakota  
Texas Eastern  
Texas Northern  
Texas Southern  
Washington Western  
Wisconsin Eastern  
Wyoming  
  
Court of Federal Claims

### Bankruptcy Courts

Alabama Northern  
California Northern  
Connecticut  
District of Columbia  
Florida Middle  
Florida Northern  
Georgia Middle  
Hawaii  
Illinois Northern  
Iowa Southern  
Kansas  
Maryland  
Massachusetts  
Michigan Western  
Mississippi Northern  
Missouri Eastern  
New Mexico  
New York Northern  
New York Western  
North Carolina Eastern  
North Carolina Middle  
Ohio Southern  
Oklahoma Eastern  
Oregon  
Pennsylvania Middle

Rhode Island  
South Carolina  
Tennessee Eastern  
Tennessee Middle  
Tennessee Western  
Texas Northern  
West Virginia Northern  
West Virginia Southern  
Wisconsin Eastern  
Virginia Western

CLERK'S  
OFFICE  
AT YOUR  
DESKTOP

# PACER

PUBLIC ACCESS TO  
COURT ELECTRONIC  
RECORDS



## WHAT IS PACER?

Public Access to Court Electronic Records (PACER) is an electronic public access service that allows users to obtain case information from federal courts. PACER is a service of the United States Judiciary, provided by the Administrative Office of the United States Courts.

PACER offers an inexpensive, easy-to-use alternative for obtaining case information without having to visit the courthouse. PACER allows the user to request information about a particular case or party using the Internet or through a dial-up connection using a computer and modem. The data is immediately available for printing or downloading.

## CM/ECF

As the new Case Management / Electronic Case Files system (CM/ECF) comes online in the federal courts, PACER will facilitate electronic access to dockets and case file documents for registered users. CM/ECF is a new case management system that allows courts to manage electronic dockets. It also allows each court the ability to receive filings electronically, pursuant to local rule or order.

## PACER AND CM/ECF

For all federal courts, PACER facilitates electronic access to docket sheets and other case information. It also allows access to images of court documents, if a court has chosen to use electronic case files. Each court maintains its own case information, as well as an Internet site, which may contain local rules, court forms and other items available to the public free of charge. PACER provides the interface with each system.

A user accesses court information via the court's Internet site or through the PACER Service Center. Although each court manages its own procedures for electronic filing, all electronic public access to case file documents occurs through PACER.

To defray the costs of PACER and CM/ECF, the Judicial Conference has set a fee of seven cents per page for electronic court data via the Internet (or sixty cents per minute via direct dial). The fee applies to all users, although courts may exempt certain persons, such as indigents or bankruptcy case trustees. Parties entitled to documents as part of the legal process receive a free electronic copy, although they will be charged for replacement copies, whether in paper or electronic form, just as they are today.



## HOW DOES IT WORK?

PACER offers convenient electronic access to:

- Case file documents
- Listings of all case parties
- Reports of case related information
- Chronologies of events entered in the case record
- Claims registries
- Listings of new bankruptcy cases
- Judgments or case status
- Nationwide party/case index

Users are billed quarterly and are allowed to enter a client code of their own choosing to facilitate tracking costs.

To register, complete the online form or submit a registration form, available on the PACER web site (<http://pacer.psc.uscourts.gov>). There is no cost for registering. Once the registration form is received by the PACER Service Center, you will receive a login and password in the mail within two weeks.

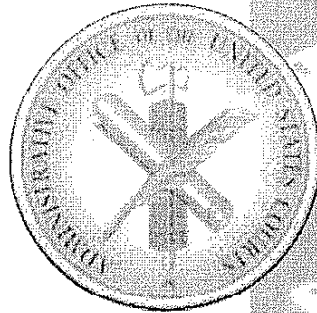
## PACER FEES

Electronic public access fees fund all of the hardware, software and other costs of providing electronic access to court data. Since 1792, Congress has directed the judiciary to charge fees for copies of court documents. In response to Congress' more recent directive to charge for access to electronic court data, the judiciary has set fees at the lowest level sufficient to fund the program. The development of Internet technology has facilitated dramatic improvements to the quality of public access at a significantly reduced cost.

## SOME PERSPECTIVE

In 1853, the cost of a copy of a court document was set by Congress at ten cents per page, a figure which, indexed for inflation, is equivalent to almost \$2 today. To obtain a paper copy today, a person must travel to the court and pay fifty cents per page. Technology and the work of court staff, funded by public access fees, have brought the courts closer to the citizens, allowing round-the-clock access to court information from anywhere in the world at a fraction of the cost.





## INFORMATION

Information regarding  
PACER is available at  
✓ <http://pacer.psc.uscourts.gov> or:

✓ PACER Service Center  
P.O. Box 780549  
San Antonio, TX 78278-0549  
(800) 676-6856  
[PACER@psc.uscourts.gov](mailto:PACER@psc.uscourts.gov)

Information regarding the Administrative Office  
and CM/ECF is available at <http://www.uscourts.gov>  
and your local court's web site.

**Bankruptcy Noticing Center (BNC)**  
**Electronic Bankruptcy Noticing (EBN)**  
**via**  
**Internet E-Mail and Fax**

**EBN Help Line: 877-837-3424**

**Fax Number: 703-668-4451**

<a href="#">What is the BNC?</a>	<a href="#">What is EBN?</a>	<a href="#">Benefits of EBN</a>	<a href="#">Requesting EBN Service</a>
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Welcome to the BNC and Electronic Bankruptcy Noticing (EBN). This page contains an overview of EBN and provides access to EBN documents and to other related Web sites.

**EBN Services**

[DSN Compliance Test](#)

[How to Become an Internet E-Mail Noticing Partner](#)

[How to Become A Fax Noticing Partner](#)

[FAQ](#)

[List of Courts & Services](#)

[List of DSN-Compliant E-Mail Providers](#)

[EBN Implementation Guide](#)

[Noticing Agreement - Send to Court](#)

[Noticing Agreement - Send to BNC](#)

[Evidence of Authority - Related Names](#)

[Evidence of Authority - Authorized Agent](#)

**What is the BNC?**

The Bankruptcy Noticing Center (BNC) was established by the Administrative Office of the U.S. Courts (AOUSC) to meet the challenge of preparing and serving bankruptcy notices in a timely and cost-effective manner. BAE Systems developed and currently operates the BNC under a contract with the AOUSC. The BNC uses advanced systems technology to provide an efficient centralized process for preparing, producing, and sending (via mail or electronic transmission) bankruptcy notices. At data center facilities in Reston, Virginia, the BNC retrieves case data each day from all the courts through electronic polling and paper. This information is entered into a customized database where all of the notice and case data are formed into images that can be printed and mailed, or electronically transmitted, to recipients. The BNC processes approximately 300,000 bankruptcy notices per day.

**What is EBN?**

The United States Bankruptcy Courts, and the BNC in conjunction with the Administrative Office of the U.S. Courts, are now offering a new way for the bankruptcy community to receive notices from the bankruptcy courts electronically. Electronic Bankruptcy Noticing, or EBN, is a free service that allows bankruptcy notice information to be transmitted electronically to those who request it. In lieu of paper notices, EBN allows you to choose to receive bankruptcy notice data in one of three ways:

- Internet E-Mail - For recipients who want the speed and convenience of receiving notices on line.
- Fax - For recipients who don't want to set up an Internet E-Mail account, but want to eliminate mail pieces.
- EDI - For high-volume recipients (200 or more notices per week) who want to automatically process data using computer database to computer database transfers.

[Name & Address  
Change Form - Send to  
Courts](#)

[Name & Address  
Change Form - Send to  
BNC](#)

[How to Become an EDI  
Trading Partner](#)

**Links:**

[USCourts](#)

## **Benefits of EBN**

Participation in the free Electronic Bankruptcy Noticing service can offer many benefits. EBN technology is operated by the Bankruptcy Noticing Center (BNC) to provide enhanced service to the bankruptcy community. In lieu of paper notices, Bankruptcy noticing data can now be Faxed, or E-Mailed allowing desktop display of the entire notice for easy reading or printing. All notice types that are transmitted electronically to the BNC from the courts can be E-Mailed or Faxed to you. Electronic bankruptcy notices are delivered days faster than the U.S. Mail if you have a PC with Internet connection or a Fax machine.

## **Requesting EBN Service**

Bankruptcy Rule 9036, which authorizes electronic noticing, requires recipients to request electronic noticing services in writing. Creditors wishing to take advantage of electronic noticing must sign a Noticing Agreement with the court to ensure understanding of the EBN process and roles of the parties. Click here for details about [becoming an Internet E-Mail Noticing Partner](#). Click here for details about [becoming a Fax Noticing Partner](#). If you are a high-volume notice recipient, click here for details about [becoming an EDI Trading Partner](#).

# ELECTRONIC BANKRUPTCY NOTICING

## PHASE II

### QUESTIONS & ANSWERS

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Electronic bankruptcy noticing services via fax or Internet e-mail with a PDF attachment (EBN Phase II) through the Bankruptcy Noticing Center is being implemented by the bankruptcy courts.

1. Q. Why should I participate in EBN Phase II?
  - A. You will receive notices days faster than the current postal service delivery time. EBN Phase II is free, and is easy to implement. Toll-free telephone support is also provided at 877-837-3424 to answer your questions.
2. Q. What is the EBN Phase II roll-out plan?
  - A. During spring 2000, four courts: New York Eastern, North Carolina Eastern, Alabama Northern and South Carolina began offering EBN Phase II services to the public. To ensure a smooth transition, not all courts can implement EBN Phase II at the same time. All remaining BNC courts will be adding EBN Phase II services throughout the year. Please check the [www.EBNuscourts.com](http://www.EBNuscourts.com) web page or call the support number for the latest list of courts offering EBN Phase II.
3. Q. Why do I have to sign a noticing agreement with each individual court?
  - A. Bankruptcy Rule 9036, which authorizes electronic noticing, requires the recipient to request in writing electronic noticing services with each court, and that a delivery receipt be part of the electronic noticing process. The noticing agreement satisfies the rule and describes the electronic noticing process and roles of the parties so that there are no misunderstandings.
4. Q. Why are there two sign-up forms for EBN Phase II?
  - A. Some courts have chosen to allow the sign-up process to occur directly with the BNC. Other courts have chosen to approve noticing agreements before routing them to the BNC for implementation. If you are not sure which form to use, please contact the BNC help line.
5. Q. Why do e-mail notice recipients have to have a special DSN e-mail account?
  - A. As described above, Bankruptcy Rule 9036 requires an electronic confirmation of notice delivery, which protects you and the court that the EBN process is working properly. At this time, some Internet Service Providers (ISPs) provide a Delivery Status Notification (DSN) back to the BNC, but many (including AOL, MindSpring, Juno, HotMail) do not. **Only those e-mail services that provide a DSN receipt will work with EBN.** If your current e-mail service is not DSN compliant, you do not need to close the account, but you will have to open an additional account with a DSN



compliant service to receive notices via e-mail. Many people prefer to keep their bankruptcy notices in a separate account from other business or personal e-mail. Please visit the EBN web page for the latest list of known DSN compliant e-mail service providers.

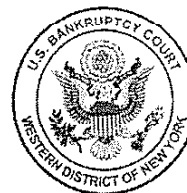
6. Q. How are creditor names/addresses updated?
  - A. This is an example of the procedures that are covered in detail in the *Electronic Bankruptcy Noticing Implementation Guide*. The noticing agreement contains a clause requiring recipients to notify the court or the BNC (depending on the court's preference) whenever names and addresses need to be added or deleted from the name matching list. The *Electronic Bankruptcy Noticing Implementation Guide* is available for review or you may download it as a PDF file from the EBN web page.
7. Q. What is the PDF file size limitation, is the file encrypted or compressed?
  - A. The e-mail notice recipient may choose to receive the attached PDF file one of three ways: 1) one e-mail with all notices from a district combined into one attachment (default) 2) one e-mail with an attachment for each notice 3) multiple e-mail messages with individual notices attached. In all cases the PDF file attachment is neither encrypted nor compressed. The PDF file attachment is limited to 2MB, which will support approximately 50 pages. An additional e-mail message and attachment will be sent should a recipient's notices from a court not fit within the 2 MB limit. Fax notices will be sent with up to 30 pages under one cover sheet.
8. Q. What if I want a notice retransmitted?
  - A. The BNC will not retransmit notices. Just as with mailed notices, if you believe you did not receive a notice or if you accidentally deleted a notice, you should contact the court for a copy.
9. Q. When is the Evidence of Authority form needed?
  - A. The Evidence of Authority form is required whenever your notices are addressed to a completely different name (not spelling variations) than your official name you used to sign-up for the service. This primarily applies to business subscribers that have subsidiary company names or law firms that wish to set up one e-mail account or fax number for multiple attorneys. See the *Electronic Bankruptcy Noticing Implementation Guide* for more information. All Evidence of Authority forms must be routed through the clerk's office before implementation by the BNC.
10. Q. If a law firm is the noticing agreement subscriber, does the firm need to complete an Evidence of Authority form listing each attorney?
  - A. It depends on how the court maintains the lawyers names and addresses and the intent of the firm. If the firm wants all the notices for all of its attorneys sent to one e-mail account or fax number, and the lawyers are listed individually in the clerk's office database, then an Evidence of Authority would be required to properly set up the account at the BNC. Please review how the name matching process works in the *Electronic Bankruptcy Noticing Implementation Guide*.
11. Q. What if an attorney leaves a firm and doesn't notify the court or BNC and is then

added to a new firm's name and address list?

- A. The BNC software matches the name AND address. If the name and address matches the court notice recipient list, it will be sent electronically to that recipient. When the BNC is setting up a new EBN noticing agreement, the software automatically checks to be sure no existing EBN recipients will match the new noticing agreement's names and addresses. If a name and address submitted matches an existing EBN recipient, the BNC will not process the agreement and will contact the customer to resolve the situation.
12. Q. Why should I attach titles (Mr., Esq) and spelling variations of my name (including initials) to the noticing agreement?
- A. In order for the notice to be sent electronically, the BNC software must exactly match the spelling of your name, including initials and/or titles, plus the address (based on the 9 digit zip code) to the name and address provided by the debtor. Please be sure to include the exact name and address (including the 9 digit zip code) from the envelope you currently receive bankruptcy notices.
13. Q. Where do I get more information?
- A. Please visit the EBN web page at [www.EBNuscourts.com](http://www.EBNuscourts.com) and call the EBN toll free help line at 877-837-3424. At the Administrative Office of the U.S. Courts, contact James "Robby" Robinson, Project Manager, at 202-502-1540. (5/5/00)



United States Bankruptcy Court  
Western District of New York



Case Management/Electronic Case Filing  
Readiness Checklist

Please use the following checklist to track your readiness to begin using the Case Management Case Filing System (CM/ECF). Only one form per firm is necessary.

Name: \_\_\_\_\_ Position: \_\_\_\_\_

Law Firm: \_\_\_\_\_

Mailing Address: \_\_\_\_\_ Phone No. \_\_\_\_\_ / \_\_\_\_\_

1.	My office has a personal computer. Minimum system requirements: <ul style="list-style-type: none"><li>• Pentium processor</li><li>• 16 MB of RAM (24MB for Windows NT; 32 MB if scanning documents)</li><li>• 40 MB of available hard disk space</li><li>• Windows 3.1 or above</li></ul> -OR-My office has a Macintosh. Minimum system requirements <ul style="list-style-type: none"><li>• 68020 processor or Power Macintosh</li><li>• 16 MB of RAM</li><li>• 40 MB of available hard disk space</li><li>• Apple System software version 7.1.2 or later</li></ul>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
2.	A PDF- compatible word-processing program, such as WordPerfect or Word, is installed	Yes <input type="checkbox"/>	No <input type="checkbox"/>
3.	I have internet access. If it is by modem, it operates at 56 kbs or faster. High speed internet access is recommended, but NOT required (i.e., cable, DSL, etc).	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.	I have an internet service provider, using point-to-point protocol (PPP). America Online is NOT endorsed for use with ECF. It is recommended that the provider is capable of a minimum connection speed of 56 kbs.	Yes <input type="checkbox"/>	No <input type="checkbox"/>
5.	Netscape Navigator version 4.6x or 4.7x or Internet Explorer 5.5 is installed.	Yes <input type="checkbox"/>	No <input type="checkbox"/>
6.	I have Adobe Acrobat software version 4.0 or greater (Acrobat reader and writer) to convert documents form word processing format to PDF format.	Yes <input type="checkbox"/>	No <input type="checkbox"/>
7.	If I am planning to scan documents, I have a scanner wither attached or networked to the computer intended for CM/ECF use.	Yes <input type="checkbox"/>	No <input type="checkbox"/>
8.	I have a PACER login and password.	Yes <input type="checkbox"/>	No <input type="checkbox"/>
9.	I have my Credit Card Authorization form on file with the Clerk's Office.	Yes <input type="checkbox"/>	No <input type="checkbox"/>

Please contact Jane Murphy (585)263-3148 or [Jane\\_Murphy@nywb.uscourts.gov](mailto:Jane_Murphy@nywb.uscourts.gov) if you have any questions about this checklist.

Please return this checklist along with your registration form to:  
U.S. Bankruptcy Court, Attn: Jane Murphy  
1220 U.S. Courthouse  
100 State Street  
Rochester, NY 14614



United States Bankruptcy Court  
Western District of New York



Case Management/Electronic Case Filing  
Skills Assessment Checklist

(Please use a separate form for each individual who will attend CM/ECF training)

Please use the following checklist to determine if you, and/or your support staff, have the skills you will need to use the Case Management/Electronic Case Filing system (CM/ECF). Please use a separate sheet for each attorney and staff member that will be using CM/ECF. This checklist will be used by the Clerk's Office to develop CM/ECF training classes that are appropriate for your skill level. Upon completion of this checklist and registration form, someone from the Clerk's Office will contact you to schedule training.

Name: \_\_\_\_\_ Position: \_\_\_\_\_

Law Firm: \_\_\_\_\_

Mailing Address: \_\_\_\_\_ Phone No. \_\_\_\_\_ / \_\_\_\_\_

1.	I know how to use a windows-based word processing software package such as Corel WordPerfect, Microsoft Word and/or a Windows-based bankruptcy forms software program. Specifically I can: <input type="checkbox"/> Create documents like motions, orders, and other case correspondence <input type="checkbox"/> Find a specific file in a directory/folder	Yes <input type="checkbox"/>	No <input type="checkbox"/>
2.	I know how to access the internet and how to use an internet browser like Netscape Navigator or Microsoft Internet Explorer from my office computer. Specifically I can: <input type="checkbox"/> Go to a specific website, like the Court's website at <a href="http://www.nywb.uscourts.gov">http://www.nywb.uscourts.gov</a> <input type="checkbox"/> Use the Forward and Back buttons (on my browser) <input type="checkbox"/> Follow a link from one page to another <input type="checkbox"/> Click on check boxes using my mouse <input type="checkbox"/> Type in text boxes <input type="checkbox"/> Print a web page	Yes <input type="checkbox"/>	No <input type="checkbox"/>
3.	I know how to view/read a Portable Document Format (PDF) file using Adobe Acrobat Software. Specifically I can: <input type="checkbox"/> Use Adobe Reader's print and save features <input type="checkbox"/> Create and save a PDF document from my word processing software or bankruptcy software <input type="checkbox"/> Scan a document and save it as a PDF file	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.	I know how to use my email system. Specifically I can: <input type="checkbox"/> Use email to open and read a message <input type="checkbox"/> Use email to create and send a message <input type="checkbox"/> Send email with attached files <input type="checkbox"/> Send the same email message more than once to more than one person at a time <input type="checkbox"/> Maintain my email account by saving and deleting messages	Yes <input type="checkbox"/>	No <input type="checkbox"/>

For your benefit and the benefit of others, please complete the CM/ECF Computer Based Training modules before attending training. You may contact the Clerk's Office to obtain a CD or go to our website at <http://www.nywb.uscourts.gov>. Please contact Jane Murphy (585)263-3148 or [Jane\\_Murphy@nywb.uscourts.gov](mailto:Jane_Murphy@nywb.uscourts.gov) if you have any questions about this checklist.

Please return this checklist along with your registration form to:  
U.S. Bankruptcy Court, Attn. Jane Murphy  
1220 U.S. Courthouse  
100 State Street  
Rochester, NY 14614

# U. S. Bankruptcy Court

## Hardware and Software Requirements for Electronic Case Files (ECF)

as of May 12, 2003

**DISCLAIMER: The Court does not endorse or warranty any one product or service.**

Requirement	Minimum	Recommended
<b>Personal Computer</b>	An IBM-compatible or MAC personal computer with a monitor, keyboard, and mouse	A 17" monitor will provide you with a larger viewing area. You may find that you do not have to cursor down as much to read a full page.
<b>Operating System</b>	An operating system that will support one of the required browsers listed below. For example: <i>Windows 95 (OSR 2.0)</i> <i>Windows 98</i> <i>Windows 2000</i> <i>Windows NT (4.0 with Service Pack 5 or 6)</i> <i>MAC OS 8.8, 9.0.4 or 9.1</i>	
<b>RAM (Random Access Memory)</b>  Note: The more memory that you have the faster your documents can be processed, such as when you are scanning and/or converting to PDF format.	32MB	256 MB
<b>Hard Drive</b>  Note: When choosing a hard drive, look at the type and size of the software that you use, and plan for the storage of the electronic documents. Files that are scanned as opposed to files created in a word processing application and converted to PDF will be larger. Click on this document ( <a href="#">imaging.pdf</a> ) for additional information on creating and storing PDF documents.	115 MB (for ECF only)	20 to 80 GB  Note: One gigabyte is equal to one million bytes. You will find 20 to 80 GB hard drives are standard in the current PC market.

<b>Processor</b>  Note: The processor speed of the PC could impact the response time of the CM/ECF application.	Pentium or equivalent	
<b>Modem</b>	28.8 kps or higher	56 kps
<b>Internet Connection</b>  Note: The higher your connection speed between your computer and your ISP, the less you will need to wait for your filings to upload.	Internet Service Provider (ISP) using point-to-point protocol (PPP) capable of a minimum connection speed of 56 kps.	ISDN, cable modem, or DSL connection for attorneys who plan to do a high volume of electronic filing.
<b>Scanner</b>  Note: A scanner is needed for a document that is not stored in a word processor/electronic format. Click on this document ( <a href="#">imaging.pdf</a> ) for additional information on creating and storing PDF documents.	300 x 300 resolution	200 x 200 resolution with a scan mode of black and white
<b>Browser</b>  Note: The versions listed are the ones tested and certified to work with ECF.  <b>DO NOT use America Online's (AOL) version of Netscape Navigator.</b>	<i>Netscape Navigator</i> , v. 4.6, 4.7x ( <a href="http://www.netscape.com">www.netscape.com</a> )  <i>Microsoft's Internet Explorer</i> , ver 5.5 ( <a href="http://www.microsoft.com">www.microsoft.com</a> )  Browser configuration recommendations: –56 bit encryption –JavaScript enabled –Session cookies enabled	128 bit encryption

<p><b>Software that allows you to convert your electronic documents to PDF (portable document format) and/or software to convert scanned documents to PDF.</b></p> <p>Note: All documents filed in ECF must be in PDF format with the exception of the case mailing matrix which is required to be in text format. Most word processing software allows you to save a document in “ASCII (DOS) Text” format (.txt).</p>	<p><i>Adobe Acrobat</i>, ver. 3.0, 4.0, 5.0 Note: Adobe Acrobat Reader can be downloaded from the Internet free which allows you to read PDF documents. However, the full version of the Adobe Acrobat software is needed to can convert and/or save documents in PDF. (<a href="http://www.adobe.com/products/acrobat/main.html">www.adobe.com/products/acrobat/main.html</a>)</p> <p><i>PDF Factory</i> (<a href="http://www.fineprint.com">www.fineprint.com</a>)</p> <p><i>Corel Wordperfect 9</i> (<a href="http://www.corel.com">www.corel.com</a>)</p>	
<p><b>A PDF-Compatible Word Processing Software and/or petition software*</b></p>	<p><i>Corel’s WordPerfect, Version 9 or higher</i></p> <p><i>MS Word</i></p>	
<p><b>Security</b></p>		<p>Firewall (software or hardware based)</p> <p>Anti-virus software that is updated regularly.</p>

\*The following is a list of petition software companies, many with ECF capability. The Court **does not endorse** or warranty the service of any vendor. If you have problems with the petition software, please contact the software provider directly.

<b>Bankruptcy Vendor / Software</b>	<b>Contact Person</b>	<b>Phone Number</b>	<b>Website / e-mail Address</b>
Best Case Solutions Inc / Best Case Bankruptcy	John Mancini	800-492-8037	Website: <a href="http://www.bestcase.com">www.bestcase.com</a> e-mail: <a href="mailto:Mancini@bestcase.com">Mancini@bestcase.com</a>
Bktools.com / bktools	John Beck	760-967-1428	Website: <a href="http://www.bktools.com">www.bktools.com</a> e-mail: <a href="mailto:Attyjonb@abac.com">Attyjonb@abac.com</a>
Cerenade Inc / Bankruptcy Esq.	B. Ramsey	800-617-4202	Website: <a href="http://www.cerenade.com">www.cerenade.com</a>
Cornerstone Computer Group Inc / Bankruptcy Plus	N/A	800-397-8238	Website: <a href="http://www.cornerstone-computer.com">www.cornerstone-computer.com</a> e-mail: <a href="mailto:Ccgi@cornerstone-computer.com">Ccgi@cornerstone-computer.com</a>
EZ Filing Inc / EZ Filing	Marty Mohr	800-998-2424	Website: <a href="http://www.ezfilling.com">www.ezfilling.com</a> e-mail: <a href="mailto:Techsupport@ezfilling.com">Techsupport@ezfilling.com</a>

<b>FreshStartSeven / Bankruptcy Software</b>	<b>Martin L. Laurence</b>	<b>206-523-2445</b>	<b>Website:</b> <a href="http://www.freshstart.com">www.freshstart.com</a> <b>e-mail:</b> <a href="mailto:Martin@freshstart.com">Martin@freshstart.com</a>
<b>Legal Pro Systems Inc / BankruptcyPRO</b>	<b>Charles Fielder III</b>	<b>800-887-0939</b>	<b>Website:</b> <a href="http://www.legal-pro.com">www.legal-pro.com</a> <b>e-mail:</b> <a href="mailto:support@legal-pro.com">support@legal-pro.com</a>
<b>Matthew Bender / Collier Top Form</b>	<b>Martha L. Rogers</b>	<b>973-820-2166</b>	<b>Website:</b> <a href="http://www.bender.com">www.bender.com</a> <b>e-mail:</b> <a href="mailto:marty.lemmond@lexisnexis.com">marty.lemmond@lexisnexis.com</a>
<b>New Hope Software Inc / Bankruptcy 2002</b>	<b>Frederick Rogovy</b>	<b>206-232-9247</b>	<b>Website:</b> <a href="http://www.bankruptcysoftware.com">www.bankruptcysoftware.com</a> <b>e-mail:</b> <a href="mailto:newhope@bkptcv.com">newhope@bkptcv.com</a>
<b>Puritas Springs Software / WBank3</b>	<b>Ernie Zore</b>	<b>440-572-7645</b>	<b>website:</b> <a href="http://www.puritas-springs.com">www.puritas-springs.com</a> <b>e-mail:</b> <a href="mailto:Ernie@puritas-springs.com">Ernie@puritas-springs.com</a>
<b>West-Speciality Software / Chapter 7...13</b>	<b>Monica Wiese Don Milo</b>	<b>N/A</b>	<b>Website:</b> <a href="http://www.westgroup.com">www.westgroup.com</a> <b>e-mail:</b> <a href="mailto:Monica.Wiese@westgroup.com">Monica.Wiese@westgroup.com</a> <a href="mailto:Don.Milo@westgroup.com">Don.Milo@westgroup.com</a>



## CM/ECF Issue Paper Creating PDF Documents August 21, 2001

The creation of Portable Document Format (PDF) documents is essential for the electronic filing component of CM/ECF; it is the only format that the application accepts. The CM/ECF project team has evaluated various options for creating PDF documents; findings and guidelines are presented below.

### Background

There are two primary methods for creating PDF documents: formatting text documents into PDF at the time of creation or scanning imaged documents from paper into PDF. The former method offers at least four significant advantages over the latter.

*Reduced Labor:* Imaging is a labor-intensive task.

*Improved System Performance:* Text documents are much smaller than imaged documents. For a typical document, its PDF text version would be only 20% of the size of its imaged version. Therefore, whenever an imaged document is stored or viewed, it puts five times more load on the network than it would as a text document. It also take five times as long to transfer.

*Reduced System Storage Cost:* An imaged document consumes about five times more storage space than it would as a text file.

*Text Search Capability:* **Text** documents **can** be searched for words and phrases. **Imaged** documents **cannot** be searched without first performing an extra step called optical character recognition (OCR). OCR is labor-intensive and does not yield 100% accuracy.

### Creating PDF documents from a word processing package

The optimal method for creating a PDF document for filing in CM/ECF is a simple method: create it directly from a word processing application using Adobe Acrobat's PDFWriter. PDF files created in this way have two advantages: they are much smaller in size than documents that have been scanned and they are text-searchable. The CM/ECF project team recommends this method for creating a PDF file from a word processing application. (Similar commercial PDF products such as "activePDF" are under review, but are not yet recommended.)

## Adobe Acrobat

The price of Adobe Acrobat is approximately \$250; the attorney discount has been discontinued. However, for law firms that need to purchase more than 10 copies, Adobe provides a volume discount; see the <http://www.adobe.com/store/openoptions/main.html> web site for more information.

## PDFWriter

PDFWriter is part of the Adobe Acrobat package. The CM/ECF project team recommends this tool for use in creating a PDF document from a word processing application because it:

- creates a file that is smaller in size than a scanned document
- creates a file that is text searchable
- converts the document more quickly than Distiller (see below)

To ensure that the formatting and appearance of the document remain the same when viewed through the word processor and when viewed or printed through the PDF reader, the printer (File/Print menu) must be set to "Acrobat PDFWriter" *before* beginning to compose or edit the document. If a document is initially prepared with some other printer specified, the ultimate conversion to PDF is very likely to introduce changes in pagination, fonts, spacing, or other formatting elements, requiring further proofreading and further editing. Once the document is saved as a PDF file, always print from the PDF reader (rather than from the word processor) to be sure that the printed copy matches the court's official copy.

If Acrobat PDFWriter is set as the default printer, no other steps should be needed. If some other printer is set as the default, Acrobat PDFWriter must be selected as the current printer immediately after opening the word processing application (or immediately after choosing to create a new document). In WordPerfect, each time the document is opened for editing before the final version is ready for filing, the printer should be set again to Acrobat PDFWriter. In Word, Acrobat PDFWriter is retained as the printer until the Word application is closed; if just the document has been closed and then reopened, the printer will still be set to Acrobat PDFWriter.

The latest version of Adobe Acrobat 5.0, has been tested by the CM/ECF project team; there is no difference between this and Adobe versions 3.0 and 4.0 in either docketing the PDF documents into the application or in accessing the documents from the application. Also, documents created in the 5.0 version can be accessed by earlier versions of Adobe Reader. The CM/ECF project team also tested the integrity of 32 fonts when converted from either WordPerfect version 8 or Word 97 into PDF using Adobe Acrobat 5.0 PDFWriter. The tests showed that while characteristics of some fonts were lost in the conversion, every font

conversion produced legible results. The details of the tests appear in Appendix A to this document.

### **Distiller**

This tool can also be used to create a PDF document but it is not recommended unless there is a need for embedded images in the document because there are a couple of drawbacks to using this tool:

- it creates a file significantly larger than that created by PDFWriter
- it takes significantly longer for the file to be created

*Note that the default installation of Adobe Acrobat 5.0 includes the installation of Distiller but not PDFWriter. To load PDFWriter, you must choose the "custom" installation. (This procedure is different from the installations of Adobe 3.0 and 4.0, which included PDFWriter in the default installation.)*

### **WordPerfect**

Although WordPerfect versions 9 and 10 offer a feature ("Publish-to-PDF") that allows a document to be converted directly into PDF format, it is not recommended; the file created in this way is unnecessarily large.

Testing by the CM/ECF project team shows that an eight page document converted to PDF with WordPerfect 9.0's Publish-to-PDF feature is three times larger in size than the same document converted with Acrobat PDFWriter. When a one page document with an image embedded in it (a small agency seal) is converted, the difference in size is much greater; the PDF file created by WordPerfect is nearly 100 times larger than the file created with PDFWriter. This difference in size can be lessened by changing the bitmap compression setting from the default of ZIP to JPEG (through the Details tab) and the quality factor from 2 (the highest quality) to 255 (the lowest quality). However, even with the quality set to 255, the file is still three times greater and with the quality set to 2, the file is 11 times greater. These tests were done with the Advanced Output setting set to the default of RGB; changing this setting to gray does not significantly change the size of the file. The quality of the seal is better at the highest quality setting (and better than the quality of the seal created through PDFWriter).

Preliminary testing of this feature in WordPerfect 10 shows that improvements have been made in the size of the file created. However, compared to the file created by PDFWriter, the WordPerfect-created PDF file is still nearly three times greater for a plain text file and eight times greater for a file with an image embedded in it. The size of the imaged file can be diminished to about four times greater by changing settings.

## Microsoft Word

Microsoft Word 97, Word 2000, and Word 2002 do not currently provide a PDF converter and the Product Guide for Microsoft Office XP makes no reference to it. There is, however, a macro installed with Adobe Acrobat (beginning with the 3.01 version) called PDFMaker that provides enhanced features for creating PDF files from Word. It is installed by Acrobat in the Microsoft Office/Office/Startup folder and is accessed through the File/Create Adobe PDF menu item or through an Adobe icon on the toolbar. It uses Acrobat PDFWriter or Distiller and converts Word features such as headings to PDF bookmarks, URLs to PDF Weblinks, cross-references within a document to PDF links, etc. A full list of these features can be found at the [www.adobe.com](http://www.adobe.com) web site (search for PDFMaker) or for users that have already installed Adobe Acrobat, a help file can be found in the Program Files/Adobe/Acrobatx.0/Help/ENU folder. (Adobe Acrobat 4.0 users who wish to use PDFMaker with Word 2000 must upgrade [this is a free upgrade from Adobe] to Acrobat 4.05; the PDFMaker that shipped with Acrobat 4.0 does not work with Word 2000.) PDFMaker is not available for the Macintosh operating system.

The PDF files created in Word using the File/Print to Acrobat PDFWriter method and the File/Create Adobe PDF (the PDFMaker macro) method are nearly identical in size. There do not appear to be any differences in the quality of the PDF files produced, but it has not been fully tested by the CM/ECF project team. The advantage of the PDFMaker macro is the additional conversion features that it provides for Word documents. If these particular Word features are not used, the File/Print to Acrobat PDFWriter method is adequate.

### Creating PDF documents from a scanning system

For those documents that must be imaged because a word-processed version does not exist, the preferred method is to scan the document directly into PDF format using Adobe Acrobat (both 4.0 and 5.0 provide this feature). (From the File menu, choose Import/Scan.) Scanning to a format other than PDF (e.g., TIFF) would add both delay and labor, requiring not only the scan but then a conversion to PDF.

#### Factors to consider when scanning

There are several factors to consider when determining how the scanning will be done.

- The quality of the document when scanned is determined by the level of detail recorded by the scanner. This detail is referred to as the resolution, which is measured by the dots per inch (dpi). A higher resolution:
  - is slower to scan (this is dependent also on the scanner and the number of pages that

- are scanned).
- creates a document with a larger file size. This, in turn, causes the loading of the document into the case management application and the retrieval of the document from the application, to be slower.

There is a trade-off between the resolution, the speed at which the document is scanned, and the file size of the scanned document. For example, using a Ricoh IS-430 scanner (rated at 30-45 pages per minute), a 100 page document scanned at 300 dpi produces a file of 6.97 MB and takes 3 minutes and 51 seconds to scan. The same document, scanned at 150 dpi produces a file of 3.67 MB and takes 2 minutes, 15 seconds to scan.

It is therefore important to find a resolution that will provide a high quality document, with a file size that does not hamper the length of time it takes to scan, load, and retrieve the document. Of those surveyed, most users that scan recommend a resolution between 200-300 dpi. The CM/ECF project team recommends 200 dpi resolution.

■ Another factor to consider is the mode of scanning. Almost always, it should be done in black and white, so that the file size will be as small as possible. However, there are some documents (those with shaded boxes, for example) that may need grayscale instead; this, however, will produce a file that is much larger in size than the document scanned in black and white. Never scan in color, unless absolutely necessary (perhaps for exhibits originally produced in color). This, too, will produce a document with an extremely large file size, which will take longer to load into the application and longer to retrieve for viewing purposes.

### **Limits on size**

Because of the staff time, disk space, and long retrieval time consumed by large documents, some courts (including non-CM/ECF courts) have set limits on either the number of pages that will be accepted electronically or the file size that will be accepted. These limits range from 25 to 150 pages, and from 1.5 to 3 MB; if a document exceeds the limit, the policy is either to break the document into separate, smaller documents or to file and maintain the document in paper form with the court. Often when this latter method is chosen, a one page PDF document is filed as a "placeholder" for the larger document, directing the reader to the location of the whole document (e.g., the reader must come to the courthouse to see the document). While this method leads to a mix of paper and electronic files in some cases, the practical costs of scanning voluminous documents makes a pure electronic case file impractical in these cases.

### **OCR and Adobe Capture**

A document that has been scanned using an OCR feature will be text-searchable, unlike the pure image file. However, the drawback to creating a document through the OCR process is

that it is generally only about 95% - 97% accurate. Different packages claim different accuracy rates, but no package claims 100% accuracy. Even a 3% error rate can add up to a fair number of errors, depending on the size of the document, and fixing each error can substantially increase the amount of time needed to prepare the documents for loading into the application.

Adobe has a package called Capture that allows conversion of scanned pages to PDF files that are text searchable, using an OCR process. However, as with all documents produced through OCR, correcting the errors slows the process. It does, however, create a PDF file that is substantially smaller in size than the scanned document (estimated at 1/16 the size of the scanned file).

## Appendix A

Adobe Acrobat 5.0 was tested for its ability to maintain font integrity through conversions to PDF of documents created in WordPerfect version 8 and Microsoft Word 97. All of the 32 fonts tested were done with a 12 point size. The results show that while characteristics of some fonts were lost in the conversion (e.g., appeared smaller), every font conversion produced legible results and none produced a problem with either character spacing or character overlap (supcrimposition).

### Fonts that maintained integrity in the conversion from WordPerfect 8 to PDF

Albertus Extra Bold	Courier New
Albertus Medium Bold	Haettenschweiler
Antique Olive	Impact
Arial	Letter Gothic
Arial Black	Letter Gothic MT
Arial NarrowBook Antiqua	Line Printer
Bookman Old Style	Marigold
Century Gothic	Modern
Century Schoolbook	Symbol (2 styles)
CG Omega	Tahoma
CG Times	Times New Roman
Clarendon Condensed Bold	Times New Roman (bold)
Comic Sans MS	Univers
Coronet	Univers Condensed Regular
Courier	Verdana

### Fonts that were altered in the conversion from WordPerfect 8 to PDF

Coronet	appears much larger and in a different font, an Adobe default font
Line Printer	appears much larger and in a different font, an Adobe default font
Marigold	appears much larger and in a different font, an Adobe default font

**Fonts that maintained integrity in the conversion from Word 97 to PDF**

Arial	Garamond
Arial Black	Haettenschweiler
Arial NarrowBook Antiqua	Impact
Bookman Old Style	Letter Gothic
Century Gothic	Symbol (2 styles)
Century Schoolbook	Tahoma
CG Times	Times New Roman
Comic Sans MS	Univers
Courier	Univers Condensed Regular
Courier New	Verdana

**Fonts that were altered in the conversion from Word 97 to PDF**

Albertus Extra Bold	bold characteristic lost, appears in a different font, an Adobe default font
Albertus Medium Bold	appears in a different font, an Adobe default font
Antique Olive	appears much smaller and in a different font, an Adobe default font
CG Omega	appears much smaller and in a different font, an Adobe default font
Clarendon Condensed Bold	appears much smaller and in a different font, an Adobe default font
Coronet	appears much larger and in a different font, an Adobe default font
Line Printer	appears much larger and in a different font, an Adobe default font
Marigold	appears much larger and in a different font, an Adobe default font
Modern	appears in a different font, an Adobe default font
Times New Roman (bold)	appears in a different font, an Adobe default font



## Internet Use Glossary of Terms

*Note: The BOLD words in the definition boxes below indicate that a complete definition is included as part of this glossary.*

<b>Adobe Acrobat</b>	The application used almost universally to create and view documents in <b>Portable Document Format (PDF)</b> . <b>Adobe</b> created the PDF format.
<b>Attachment</b>	An additional supporting document filed electronically with a pleading. Exhibits can be attachments to motions.
<b>Automatic E-mail Notification</b>	A CM/ECF feature that permits any user to receive notification of the filing of a case or document via e-mail. Users can choose to receive separate notification throughout the day or an end-of-day summary.
<b>Bandwidth</b>	The amount of capacity a network has to send information. The more bandwidth available, the quicker the information is sent.
<b>Bookmark</b>	A browser feature that lets a user save the <b>Universal Resource Locator (URL)</b> of a Web page so it can be easily revisited at a later time.
<b>Browse</b>	A Windows operation of navigating through directories via a mouse to select a specific file.
<b>Browser</b>	A software program that provides a user-friendly interface allowing a user to access information and services available on the Internet. Browser programs interpret <b>Hyper Text Markup Language (HTML)</b> documents delivered from Web servers. Netscape Navigator and Microsoft Internet Explorer are the two most popular Web browsers; however, only Netscape Navigator is guaranteed to work with CM/ECF.
<b>Byte</b>	A group of bits. In computer storage terms, a byte usually holds a single character, such as a number, letter or symbol. 1 bit = a, 1 or 0 (b) 4 bits = 1 nybble (?) 8 bits = 1 byte (B) 1024 bytes = 1 Kilobyte (KB) 1024 Kilobytes = 1 Megabyte (MB) 1024 Gigabytes = 1 Terabyte (TB)
<b>Category</b>	In CM/ECF, a category is a classification of similar document types. Category selections appear as <b>hyper text links</b> under the Bankruptcy and Adversary menu selections.

<b>CBT</b>	A CBT (computer-based training) is an on-line learning application over a local area network (LAN) or from a CD. When a CBT is accessed over the Web, it is referred to as web-based training or a WBT.
<b>Check Box</b>	A control object used to select choices from a list. Check boxes are so that you can choose one or more items from a list.
<b>Drop Down Box</b>	A window that lists selections of data alphabetically in a text. They are used throughout CM/ECF for making selections. When you see the selection you want to make, click to highlight it. To make multiple selections, hold your control key when selecting the second, third, etc. item.
<b>Frame</b>	An area on a Web page. Some Web pages have multiple frames or areas.
<b>Hyper Text Link</b>	A hypertext link is a <b>Universal Resource Locator (URL)</b> embedded in an HTML ( <b>Hyper Text Markup Language</b> ) document most often underlined. It permits a user to move from one area or topic to another in a Web-based program.
<b>Hyper Text Markup Language</b>	A specialized language used to create documents on the Web.
<b>Hyper Text Transfer Protocol</b>	The underlying protocol used by the Web. HTTP defines how messages are formatted and transmitted. When a Web address is entered into a browser, an HTTP command is sent to the Web server directing it to retrieve and transmit the requested Web page.
<b>Internet</b>	A global network connecting millions of computers. Access to the Internet is gained through online services such as America Online or through an Internet Service Provider such as AT&T Broadband.
<b>Portable Document Format (PDF)</b>	A Portable Document Format (PDF) is a type of imaged document created by Adobe Acrobat. All documents filed in CM/ECF must be in PDF format, with the exception of the creditor matrix, which must be uploaded in a text (.txt) format.
<b>Radio Button</b>	A round selection button used to choose items from a list. Radio buttons are designed so that you can choose only <u>one</u> item.
<b>Universal Resource Locator (URL)</b>	A Universal Resource Locator (URL) is the naming scheme used to find Web pages. A URL is similar to a street address. The USBC, Western District of Wisconsin <b>Internet</b> URL is <a href="http://www.wiw.uscourts.gov/bankruptcy">www.wiw.uscourts.gov/bankruptcy</a>

## **Specifics for Attorneys**

### **1. Can an attorney add new attorneys to the database?**

ANSWER: Only court staff with appropriate permissions may add attorneys to the database as system users. However, it is possible for an attorney to add another attorney to a case, and to the database, during case opening. The new attorney would NOT have filing privileges. In order to obtain those privileges, the attorney must make the proper application to the court and, if approved, a member of the court staff with appropriate permissions could assign a login and password. (Updated: July 2001)

### **2. What should an attorney or court user do if the document he or she is filing is not listed in the pick list?**

ANSWER: Each court maintains its own event dictionary. If a user wishes to file a document that is not listed in the pick list, he or she can contact the person maintaining the dictionary and request that an event be added. It is up to the court to determine whether to add a new docket dictionary event. The update can be accomplished within a few minutes. (Updated: July 2001)

### **3. Will attorneys be able to access the CM/ECF system after the court's regular business hours to file cases and review documents/docket sheets?**

ANSWER: The system can be made available 24 hours a day, 7 days a week. (Updated: July 2001)

### **4. Is CM/ECF browser specific?**

ANSWER: District Version 1 will be compatible with both Netscape versions 4.6 or 4.7 and Internet Explorer version 5.5. Bankruptcy version 1 is compatible with Netscape versions 4.6 or 4.7. The CM/ECF team is currently testing the bankruptcy version 1 product with Internet Explorer version 5.5 to certify its compatibility with the CM/ECF system. However, we currently have some users accessing the system through Internet Explorer with positive results. In either case, your browser must be JavaScript-enabled. (Updated: November 2001)

### **5. Is CM/ECF word processor specific?**

ANSWER: No, you may use any word processor that can convert documents to PDF. (Effective: April 2001)

### **6. What is Adobe Acrobat?**

ANSWER: Adobe Acrobat is a commercial software package that enables you to save your document in PDF (Portable Document Format). The most recent version, 5.0, is available from retailers for approximately \$220 - \$250. The discount that Adobe previously offered to attorneys has been discontinued. However, there may be volume discounts that attorneys can receive if ordering multiple copies for their firm. Contact Adobe for more information. (Effective: June 2001)

### **7. Question: How do I create a PDF file and how do I ensure that the printed copy of the document matches the public/docketed version?**

ANSWER: Follow these steps:

1. When creating a new document to be filed, before writing the document, first change the print driver from the default printer (e.g., HP5Si) to "Acrobat PDFWriter" by selecting File/Print and then selecting "Acrobat PDFWriter" as the current printer.
2. Write your document and when finished, select File/Print. Ensure that "Acrobat PDFWriter" is selected as the printer and then name your file (and place it in the proper directory) and click OK. The file will be created with a .pdf extension. In doing this, you are not actually printing your document to a printer; instead you are saving it to a file. To print a physical copy of the document, open the newly created .pdf file and print to your local printer. Always print from this PDF file, rather than the word processed file that created it to ensure that the paper and electronic versions are consistent with each other.

Alternatively, you can set the printer to "Acrobat PDFWriter" after the document has been created to save it to a PDF file, but there is a possibility of introducing a formatting discrepancy, if, for instance, a page break is not the same in the PDF file as it was in the word processed file.

Adobe Acrobat 5.0 was tested for its ability to maintain font integrity through conversions to PDF of documents created in WordPerfect version 8 and Microsoft Word 97. All of the 32 fonts tested were done with a 12 point size. The results show that while characteristics of some fonts were lost in the conversion (e.g., appeared smaller), every font conversion produced legible results and none produced a problem with either character spacing or character overlap (superimposition). The results of these tests are in the tables below. (Effective: June 2001)

#### Fonts that maintained integrity in the conversion from WordPerfect 8 to PDF

Albertus Extra Bold	Courier New
Albertus Medium Bold	Haettenschweiler
Antique Olive	Impact
Arial	Letter Gothic
Arial Black	Letter Gothic MT
Arial NarrowBook Antiqua	Line Printer
Bookman Old Style	Marigold
Century Gothic	Modern
Century Schoolbook	Symbol (2 styles)
CG Omega	Tahoma
CG Times	Times New Roman
Clarendon Condensed Bold	Times New Roman (bold)
Comic Sans MS	Univers
Coronet	Univers Condensed Regular
Courier	Verdana

#### Fonts that were altered in the conversion from WordPerfect 8 to PDF

Coronet	appears much larger and in a different font, an Adobe default font
Line Printer	appears much larger and in a different font, an Adobe default font
Marigold	appears much larger and in a different font, an Adobe default font

### Fonts that maintained integrity in the conversion from Word 97 to PDF

Arial	Garamond
Arial Black	Haettenschweiler
Arial Narrow	Book Antiqua
Bookman Old Style	Impact
Century Gothic	Letter Gothic
Century Schoolbook	Symbol (2 styles)
CG Times	Tahoma
Comic Sans MS	Times New Roman
Courier	Univers
Courier New	Univers Condensed Regular
	Verdana

### Fonts that were altered in the conversion from Word 97 to PDF

Albertus Extra Bold	bold characteristic lost, appears in a different font, an Adobe default font
Albertus Medium Bold	appears in a different font, an Adobe default font
Antique Olive	appears much smaller and in a different font, an Adobe default font
CG Omega	appears much smaller and in a different font, an Adobe default font
Clarendon Condensed Bold	appears much smaller and in a different font, an Adobe default font
Coronet	appears much larger and in a different font, an Adobe default font
Line Printer	appears much larger and in a different font, an Adobe default font
Marigold	appears much larger and in a different font, an Adobe default font
Modern	appears in a different font, an Adobe default font
Times New Roman (bold)	appears in a different font, an Adobe default font

## 8. Can any member of the public use CM/ECF to file documents with the Court?

ANSWER: No. Currently, access to CM/ECF for filing is available only to users authorized by the court. Most courts are currently allowing only attorneys to register for filing logins and passwords, although some courts issue logins and passwords to trustees. (Updated: July 2001)

## 9. Can the general public view CM/ECF cases and the documents in those cases?

ANSWER: Access to view cases and documents in CM/ECF is available to anyone with a PACER login and password. PACER offers convenient electronic access to case file documents, listing of all case parties, reports of case related information, chronologies of events entered in the case record, claim registries, listing of new cases, judgments or case status, and a calendar of events. However, as a result of the policy recently adopted by the Judicial Conference, the public cannot view documents filed in Civil Social Security Appeal cases or Criminal cases.

To defray the costs of PACER and CM/ECF, the Judicial Conference has set a fee of seven cents per page for electronic court data via the internet, except for calendar information, for which there is no charge. The fee applies to all users, although courts may exempt certain persons, such as indigents or bankruptcy case trustees. Parties entitled to documents as part of the legal process receive a free electronic copy, although they will be charged for replacement copies, whether in paper or electronic form. (Updated: November 2001)

#### **10. What hardware and software will attorneys need to participate in CM/ECF?**

ANSWER: Attorneys will need the following hardware and software to electronically file, view, and retrieve documents in the electronic filing system:

- A personal computer running a standard platform such as Windows, Windows 95, Windows 98, or Macintosh.
- An Internet provider using Point to Point Protocol (PPP).
- Netscape Navigator version 4.6 or 4.7. Netscape 6 is not recommended for use with CM/ECF. The CM/ECF technical staff are currently testing Internet Explorer version 5.5 to certify its compatibility with the CM/ECF system. However, we currently have some users accessing the system through Internet Explorer with positive results. (128 bit encryption is recommended)
- Adobe Acrobat PDF Writer software to convert documents from a word processor format to portable document format (PDF). Acrobat Writer Versions 3.X, 4.X, and 5.0 adequately meet the CM/ECF filing requirements. The most recent version, 5.0, is available from retailers for approximately \$220 - \$250. The discount that Adobe previously offered to attorneys has been discontinued. However, there may be volume discounts that attorneys can receive if ordering multiple copies for their firm. For viewing documents, not authoring them, Adobe Acrobat Reader only is needed.
- A PDF compatible word processor like Macintosh or Windows based versions of WordPerfect and Word.
- A scanner to transmit documents that are not in your word processing system

#### **11. Will someone submitting a long document monopolize the system to the detriment of other users? How long will it take to transmit/receive lengthy documents?**

ANSWER: A user submitting a large document to CM/ECF will not interfere with other users' access. The system uses webbed technology which is designed to service large numbers of users simultaneously.

The time it takes to transmit or receive a document primarily depends on the user's Internet Service Provider (ISP), modem speed, and the size of PDF file being transmitted or received. Generally, the larger the file, the longer it will take to load. Local courts may restrict the size of certain types of documents by local rule or policy, just as they do currently.

The CM/ECF system will accept both text and image PDF files. The text PDF file is usually the result of saving a document from a word processor in PDF format using Adobe Acrobat PDFWriter. The image PDF file is usually created by scanning a paper document in PDF format. The text file can be transmitted to the CM/ECF application faster than the image file because it is much smaller in size. While the difference in speed is usually not noticeable in a 1 or 2 page document, the difference can be significant when a document reaches about 20 pages in length.

Attorneys may submit attachments that are extremely large (more than 50 pages) that will take a long time

to download, even in text format. We suggest that each court establish filing procedures that encourage attorneys to file text documents, whenever possible, to break lengthy documents into logical pieces that can be uploaded and downloaded separately, and to label each piece with a descriptive title. This will not only reduce the filing time but will also allow users who wish to access the document(s) to download only those portions needed, thus saving time. (Effective: July 2001)

**12. When a user files a pleading with the court does the system automatically serve the other parties or does the user have to do something extra to serve the others? And, do the other parties just get notification of a filing or do they get the actual document?**

ANSWER: The system is set up so that when a court user or attorney files a document with the court, a notice of electronic filing is generated that includes information about what was filed, the text of the docket entry, the unique document stamp, and a list of case participants that receive email notification of the filing and a list of those that do not. The notice of electronic filing sent to those listed as receiving email notification contains a hyperlink to the document.

Whether or not the receipt of this notice constitutes "service" depends on the provisions of the local rules of procedure. Most provide that sending of an electronic notice of filing constitutes service. (Effective: March 2000)

**13. Will there be restrictions on who may have access to the CM/ECF system for the purpose of filing documents? Will there be restrictions on who may have access to the CM/ECF system for the purpose of seeing the filed documents or for other purposes?**

ANSWER: Each court determines to whom filing logins and passwords are issued. At the present time, courts are providing document filing access principally to attorneys, although some courts are also providing access to US trustees and other bankruptcy trustees. Some courts are considering issuing passwords for claim filers.

The issues relating to access to already filed documents has been the subject of considerable discussion. Most, if not all courts are currently allowing public access through the Internet to the electronic documents. CM/ECF allows a court to selectively limit access to specific documents or all documents filed in a case. The Judicial Conference will be considering recommendations relating to remote public access to electronic documents at its September 2001 meeting. (Updated: August 2001)

**14. How will signature of documents be handled for documents filed electronically?**

ANSWER: At present, this is a matter for local court rule or order. All courts using electronic filing are currently treating use of an attorney's unique system login and password as a signature. Most of the courts require that attorneys retain copies of critical paper documents, such as affidavits or bankruptcy petitions, containing original signatures of parties for a set period of time. (Updated: August 2001)

**15. Will federal or local rules be in place to establish procedures for electronic filing?**

ANSWER: The Federal Rules of Procedure currently authorize individual courts to permit electronic filing of documents by local rule. See Fed. R. Civ. P. 5(e); Fed. R. Crim. P. 49(d); Fed. R. App. P. 25(a)(2)(D); Fed. R. Bankr. P. 5005(a)(2), 7005, 8008(a). Most of the courts have issued a rule or general order authorizing electronic filing. For a summary of those rules, see legal policy, local rules of procedure. Most courts' rules are also available on their websites.

As each court prepares for CM/ECF implementation, it will need to issue its own authorizing rules. The summary mentioned above will be helpful in this effort. A set of "model rules" for electronic filing is under consideration by the Judicial Conference.

Amendments to the Civil Rules and Bankruptcy Rules that would permit service of documents by electronic means with parties' consent are expected to go into effect in December 2001. Similar amendments to the Criminal Rules and Appellate Rules are pending before the Judicial Conference.

#### **16. How are fees paid?**

ANSWER: ECF courts generally require attorneys to pay bankruptcy fees for cases filed electronically via credit card payment. The attorney will complete and submit to the court a Credit Card Authorization form with a credit card number for the court to use. The court will maintain the credit card numbers in a secure area and process the bankruptcy fees the day following any filings. Most courts continue to accept cash and checks for over the counter filings.

Currently, the Southern District of California and the Southern District of New York bankruptcy courts are testing a new enhancement which allows filers authorized by the court the ability to directly pay filing fees on CM/ECF using the U.S. Treasury Internet credit card service. Upon the successful submission of a docket entry requiring a filing fee payment as filing a bankruptcy petition, the filer will immediately be offered the option to pay the filing fee via the Internet. Assuming the filer chooses to immediately pay, the individual will be electronically redirected to the U.S. Treasury site for electronic payment. Upon the successful processing of the credit card payment on the Internet, the filer will receive a receipt and an "Internet credit card payment" docket event will be automatically entered into the case record. (Effective: September 2001)

#### **17. What happens if a document is filed in error?**

ANSWER: Most errors will be immediately advertised through the real time electronic notices and access to the docket report; making deletions of entries to the docket or associated .pdf documents very rare, if ever. CM/ECF allows court personnel to edit errors made in the docket entry. Besides making the appropriate corrections, the court may need to ask participants to submit amended pleadings. Instances that affect calendar entries and noticing will need to be redocketed. Many courts are choosing not to edit the docket entry and use a "corrective entry" event, which officially records substantive errors on the docket sheet and will generate a Notice of Electronic Filing. This allows the distribution of the correct information to the participants who originally received the erroneous information.

Standardized text for uniformity in annotating changes have been incorporated by many courts. (Example: ERROR: ATTACHED PDF DOES NOT MATCH DOCKET TEXT). (Effective: September 2001)

#### **18. How does the court record and preserve the debtor's original signature? Who will maintain this document? How long must this be saved?**

ANSWER: In some courts, the U.S. Attorney has requested that the debtor's originally signed declaration concerning the petition and schedules be stored in the clerk's office. Other courts have procedures requiring attorneys to keep the original documents. In most cases, signatures on electronically submitted documents will be indicated with "s/" above the party's typed name.

The procedures for preserving the debtor's original signatures vary among the courts. In some courts, the attorney is required to retain paper copies of critical documents, such as affidavits or petitions, containing



the debtor's original signature for a set period of time (e.g., four years). Other courts maintain that the originals of documents requiring signatures must be maintained until the time allowed for appeal has elapsed. In another court, documents requiring original signatures shall be filed electronically with originally executed copies maintained by the filer.

The Bankruptcy Judges Division (BJD) has drafted a paper outlining the various issues related to signatures. Please contact your BJD representative for a copy.  
(Effective: September 2001)

**19. What about court generated documents that require certification?**

ANSWER: Currently, the district and bankruptcy courts enter court generated documents into the CM/ECF system in PDF format. On request they will print a copy of the document and affix the certification or seal in the traditional manner. The bankruptcy courts are experimenting with attaching an imaged seal to the Notice of Bankruptcy Case Filing. This is intended to take the place of the traditional seal. If this proves to be successful, it could be expanded to other documents requiring certification or seal.

The long-term solution is that persons requiring the certified documents (such as sheriffs or banks) can view the electronic document directly in the court's database; this will eliminate the presentation of fraudulent documents that occurs in today's paper environment. (Effective: November 1999)

**20. How exactly is a court to handle the following non-electronic filings: documents that are not, or cannot, be rendered into PDF format; pro se or prisoner litigants who do not have access to a computer; counsel that do not have computers?**

ANSWER: Documents that can be scanned can also be stored in PDF format. Documents that cannot be scanned (due to oversized pages, poor quality or excessive length) can be maintained in a paper file. The corresponding docket entry for such documents would contain a note or hyperlink to a note stating that the document is not available electronically. Pro se litigants can be offered the use of public terminals in the court to complete their filings or the court can accept paper filings and scan them. Prisoner petitions can also be scanned or the court can choose to maintain paper files for such cases. Counsel without access to computers can either fax their documents or submit them to court staff to be scanned. (Updated: January 2001)

**21. Describe a CM/ECF court's claims process. How are large attachments to claims managed? How are claims activities monitored? Are there any special accommodations for cases with thousands of claims?**

ANSWER: Attorneys and other CM/ECF participants can prepare the proof of claim as a word processing document or in a bankruptcy preparation software program, convert it to a .pdf document and submit it to the court. The processing of claims with attachments varies among the live CM/ECF courts. The practices include scanning all claim documents, scanning a set number of pages, scanning a one-page summary, breaking the attachment into manageable smaller files and scanning them separately, or scanning the front page which has been stamped to indicate that the attachment is available in the clerk's office. Some courts have hired temporary employees to handle the scanning load and at the same time, proactively working with the attorneys to encourage them to file the claims electronically.

Many courts are allowing certain creditors limited access to CM/ECF for the purpose of filing claims and related pleadings. State and federal agencies, financial firms and Becket & Lee have been filing claims in some CM/ECF districts. LA-M provides a limited access password to the live system for local creditors

trained at the court. Out-of-town creditors are trained via the telephone. For the large creditors, a conference call may be used to train several people at the same time. (Effective: September 2001)

**21. Are CM/ECF courts fulfilling the intent of BR 1007(I) by providing an electronic copy of petitions, lists, schedules etc.?**

ANSWER: Providing the access to the documents granted to parties free of charge through the CM/ECF system can satisfy the requirement that a copy be transmitted to the U.S. Trustee. With the CM/ECF system, an e-mail is transmitted to the U.S. Trustee with a link to the document. Since most courts require CM/ECF participants to agree to accept e-mail notification with a link to the document as electronic service, the U. S. Trustee agrees to accept this method electronic service when signing up for CM/ECF. Bankruptcy Rule 5005(a)(2) states that an electronically filed document "constitutes a written paper," so it is clear that the electronic version is a "copy" that satisfies Bankruptcy Rules 1002(b) and 1007(I). The word "transmit" was chosen deliberately, in consultation with the Director of the Executive Office for U.S. Trustees, to permit the clerk and parties to use delivery methods other than those authorized for effecting "service" when providing documents to the U. S. Trustee. Theoretically, the duty to "transmit" rather than "serve" would permit the court to send the petition and schedules, etc. to the U.S. Trustee without obtaining the written consent required before electronic service would be proper under Civil Rule 5(b)(2)(D)/Bankruptcy Rule 7005 as amended 12/01/01. Imposing electronic transmission unilaterally, of course, would not nurture a cooperative relationship with the U.S. Trustee. Accordingly, it would be best to obtain the U.S. Trustee's consent, just as the court would from any registered user. The U.S. Trustee's CM/ECF registration form should contain: 1) a waiver of traditional service/consent to electronic service, 2) an agreement to e-mail notification with the link to the document as equivalent to service, and, 3) in the case of the U.S. Trustee, as equivalent to "transmission." (Effective: February 2002)

## **Report of the Judicial Conference Committee on Court Administration and Case Management on Privacy and Public Access to Electronic Case Files**

**Approved by the Judicial Conference of the United States  
September 2001**

The Judicial Conference of the United States requested that its Committee on Court Administration and Case Management examine issues related to privacy and public access to electronic case files. The Committee on Court Administration and Case Management formed a special subcommittee for this purpose. This subcommittee, known as the Subcommittee on Privacy and Public Access to Electronic Case Files, consisted of four members of the Committee on Court Administration and Case Management: Judge John W. Lungstrum, District of Kansas, Chair; Judge Samuel Grayson Wilson, Western District of Virginia; Judge Jerry A. Davis, Magistrate Judge, Northern District of Mississippi; and Judge J. Rich Leonard, Bankruptcy Judge, Eastern District of North Carolina, and one member from each of four other Judicial Conference Committees (liaison Committees): Judge Emmet Sullivan, District of Columbia, liaison from the Committee on Criminal Law; Judge James Robertson, District of Columbia, liaison from the Committee on Automation and Technology; Judge Sarah S. Vance, Eastern District of Louisiana, liaison from the Committee on the Administration of the Bankruptcy System; and Gene W. Lafitte, Esq., Liskow and Lewis, New Orleans, Louisiana, liaison from the Committee on the Rules of Practice and Procedure. After a lengthy process described below, the Subcommittee on Privacy and Public Access to Electronic Case Files, drafted a report containing recommendations for a judiciary-wide privacy and access policy.

The four liaison Committees reviewed the report and provided comments on it to the full Committee on Court Administration and Case Management. After carefully considering these comments, as well as comments of its own members, the Committee on Court Administration and Case Management made several changes to the subcommittee report, and adopted the amended report as its own.

### **Brief History of the Committee's Study of Privacy Issues**

The Committee on Court Administration and Case Management, through its Subcommittee on Privacy and Public Access to Electronic Case Files (the Subcommittee) began its study of privacy and security concerns regarding public electronic access to case file information in June 1999. It has held numerous meetings and conference calls and received information from experts and academics in the privacy arena, as well as from court users, including judges, court clerks, and government agencies. As a result, in May 2000, the Subcommittee developed several policy options and alternatives for the creation of a judiciary-wide electronic access privacy policy which were presented to the full Committee on Court Administration and Case Management and the liaison committees at their Summer 2000 meetings. The Subcommittee used the opinions and feedback from these committees to further refine the policy options.

In November 2000, the Subcommittee produced a document entitled "Request for Comment on Privacy and Public Access to Electronic Case Files." This document contains the alternatives the Subcommittee

perceived as viable following the committees' feedback. The Subcommittee published this document for public comment from November 13, 2000 through January 26, 2001. A website at [www.privacy.uscourts.gov](http://www.privacy.uscourts.gov) was established to publicize the comment document and to collect the comments. Two hundred forty-two comments were received from a very wide range of interested persons including private citizens, privacy rights groups, journalists, private investigators, attorneys, data re-sellers and representatives of the financial services industry. Those comments, in summary and full text format, are available at that website.

On March 16, 2001, the Subcommittee held a public hearing to gain further insight into the issues surrounding privacy and access. Fifteen individuals who had submitted written comments made oral presentations to and answered the questions of Subcommittee members. Following the hearing, the Subcommittee met, considered the comments received, and reached agreement on the policy recommendations contained in this document.

## Background

Federal court case files, unless sealed or otherwise subject to restricted access by statute, federal rule, or Judicial Conference policy, are presumed to be available for public inspection and copying. See *Nixon v. Warner Communications, Inc.*, 435 U.S. 589 (1978) (holding that there is a common law right "to inspect and copy public records and documents, including judicial records and documents"). The tradition of public access to federal court case files is also rooted in constitutional principles. See *Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555, 575-78 (1980). However, public access rights are not absolute, and courts balance access and privacy interests in making decisions about the public disclosure and dissemination of case files. The authority to protect personal privacy and other legitimate interests in nondisclosure is based, like public access rights, in common law and constitutional principles. See *Nixon*, 435 U.S. at 596 ("[E]very court has supervisory power over its own records and files, and access has been denied where court files might have become a vehicle for improper purposes").

The term "case file" (whether electronic or paper) means the collection of documents officially filed by the litigants or the court in the context of litigation, the docket entries that catalog such filings, and transcripts of judicial proceedings. The case file generally does not include several other types of information, including non-filed discovery material, trial exhibits that have not been admitted into evidence, drafts or notes by judges or court staff, and various documents that are sometimes known as "left-side" file material. Sealed material, although part of the case file, is accessible only by court order.

Certain types of cases, categories of information, and specific documents may require special protection from unlimited public access, as further specified in the sections on civil, criminal, bankruptcy and appellate case files below. See *United States Department of Justice v. Reporters Committee for Freedom of the Press*, 489 U.S. 749 (1989) (noting that technology may affect the balance between access rights and privacy and security interests). To a great extent, these recommendations rely upon counsel and litigants to act to protect the interests of their clients and themselves. This may necessitate an effort by the courts to educate the bar and the public about the fact that documents filed in federal court cases may be available on the Internet.

It is also important to note that the federal courts are not required to provide electronic access to case files (assuming that a paper file is maintained), and these recommendations do not create any entitlement to such access. As a practical matter, during this time of transition when courts are implementing new practices, there may be disparity in access among courts because of varying technology. Nonetheless, the federal courts recognize that the public should share in the benefits of information technology, including more efficient access to court case files.

These recommendations propose privacy policy options which the Committee on Court Administration and Case Management (the Committee) believes can provide solutions to issues of privacy and access as those issues are now presented. To the extent that courts are currently experimenting with procedures which differ from those articulated in this document, those courts should reexamine those procedures in light of the policies outlined herein. The Committee recognizes that technology is ever changing and these recommendations may require frequent re-examination and revision.

## **Recommendations**

The policy recommended for adoption by the Judicial Conference is as follows:

### **General Principles**

- There should be consistent, nationwide policies in federal courts in order to ensure that similar privacy protections and access presumptions apply regardless of which federal court is the custodian of a particular case file.
- Notice of these nationwide policies should be given to all litigants in federal court so that they will be aware of the fact that materials which they submit in a federal court proceeding could become available on the Internet.
- Members of the bar must be educated about the policies and the fact that they must protect their clients by carefully examining the documents that they file in federal court for sensitive, private information and by making the appropriate motions to protect documents from electronic access when necessary.
- Except where otherwise noted, the policies apply to both paper and electronic files.
- Electronic access to docket sheets through PACERNet and court opinions through court websites will not be affected by these policies.
- The availability of case files at the courthouse will not be affected or limited by these policies.
- Nothing in these recommendations is intended to create a private right of action or to limit the application of Rule 11 of the Federal Rules of Civil Procedure.

### **Case Types**

#### **Civil Case Files**

**Recommendation:** That documents in civil case files should be made available electronically to the same extent that they are available at the courthouse with one exception (Social Security cases should be excluded from electronic access) and one change in policy (the requirement that certain "personal data identifiers" be modified or partially redacted by the litigants). These identifiers are Social Security numbers, dates of birth, financial account numbers and names of minor children.

The recommendation provides for liberal remote electronic access to civil case files while also adopting

some means to protect individual privacy. Remote electronic access will be available only through the PACERNet system which requires registration with the PACER service center and the use of a log in and password. This creates an electronic trail which can be retraced in order to determine who accessed certain information if a problem arises. Further, this recommendation contemplates that certain personal, identifying information will not be included in its full and complete form in case documents, whether electronic or hard copy. For example, if the Social Security number of an individual must be included in a document, only the last four digits of that number will be used whether that document is to be filed electronically or at the courthouse. If the involvement of a minor child must be mentioned, only that child's initials should be used; if an individual's date of birth is necessary, only the year should be used; and, if financial account numbers are relevant, only the last four digits should be recited in the document. It is anticipated that as courts develop local rules and instructions for the use and implementation of Electronic Case Filing (ECF), such rules and instructions will include direction on the truncation by the litigants of personal identifying information. Similar rule changes would apply to courts which are imaging documents.

Providing remote electronic access equal to courthouse access will require counsel and pro se litigants to protect their interests through a careful review of whether it is essential to their case to file certain documents containing private sensitive information or by the use of motions to seal and for protective orders. It will also depend upon the discretion of judges to protect privacy and security interests as they arise in individual cases. However, it is the experience of the ECF prototype courts and courts which have been imaging documents and making them electronically available that reliance on judicial discretion has not been problematic and has not dramatically increased or altered the amount and nature of motions to seal. It is also the experience of those courts that have been making their case file information available through PACERNet that there have been virtually no reported privacy problems as a result.

This recommended "public is public" policy is simple and can be easily and consistently applied nationwide. The recommended policy will "level the geographic playing field" in civil cases in federal court by allowing attorneys not located in geographic proximity to the courthouse easy access. Having both remote electronic access and courthouse access to the same information will also utilize more fully the technology available to the courts and will allow clerks' offices to better and more easily serve the needs of the bar and the public. In addition, it might also discourage the possible development of a "cottage industry" headed by data re-sellers who, if remote electronic access were restricted, could go to the courthouse, copy the files, download the information to a private website, and charge for access to that website, thus profiting from the sale of public information and undermining restrictions intended to protect privacy.

Each of the other policy options articulated in the document for comment presented its own problems. The idea of defining what documents should be included in the public file was rejected because it would require the courts to restrict access at the courthouse to information that has traditionally been available from courthouse files. This would have the net effect of allowing less overall access in a technological age where greater access is easy to achieve. It would also require making the very difficult determination of what information should be included in the public file.

The Committee seriously considered and debated at length the idea of creating levels of access to electronic documents (i.e., access to certain documents for specific users would be based upon the user's status in the case). The Committee ultimately decided that levels of access restrictions were too complicated in relation to the privacy benefits which could be derived therefrom. It would be difficult, for example, to prohibit a user with full access to all case information, such as a party to the case, from downloading and disseminating the restricted information. Also, the levels of access would only exist in

relation to the remote electronic file and not in relation to the courthouse file. This would result in unequal remote and physical access to the same information and could foster a cottage industry of courthouse data collection as described above.

Seeking an amendment to the Federal Rules of Civil Procedure was not recommended for several reasons. First, any such rules amendment would take several years to effectuate, and the Committee concluded that privacy issues need immediate attention. There was some discussion about the need for a provision in Fed. R. Civ. P. 11 providing for sanctions against counsel or litigants who, as a litigation tactic, intentionally include scurrilous or embarrassing, irrelevant information in a document so that this information will be available on the Internet. The Committee ultimately determined that, at least for now, the current language of Fed. R. Civ. P. 11 and the inherent power of the court are sufficient to deter such actions and to enforce any privacy policy.

As noted above, this recommendation treats Social Security cases differently from other civil case files. It would limit remote electronic access. It does contemplate, however, the existence of a skeletal electronic file in Social Security cases which would contain documents such as the complaint, answer and dispositive cross motions or petitions for review as applicable but **not** the administrative record and would be available to the court for statistical and case management purposes. This recommendation would also allow litigants to electronically file documents, except for the administrative record, in Social Security cases and would permit electronic access to these documents by litigants only.

After much debate, the consensus of the Committee was that Social Security cases warrant such treatment because they are of an inherently different nature from other civil cases. They are the continuation of an administrative proceeding, the files of which are confidential until the jurisdiction of the district court is invoked, by an individual to enforce his or her rights under a government program. Further, all Social Security disability claims, which are the majority of Social Security cases filed in district court, contain extremely detailed medical records and other personal information which an applicant must submit in an effort to establish disability. Such medical and personal information is critical to the court and is of little or no legitimate use to anyone not a party to the case. Thus, making such information available on the Internet would be of little public benefit and would present a substantial intrusion into the privacy of the claimant. Social Security files would still be available in their entirety at the courthouse.

### **Criminal Case Files**

**Recommendation: That public remote electronic access to documents in criminal cases should not be available at this time, with the understanding that the policy will be reexamined within two years of adoption by the Judicial Conference.**

The Committee determined that any benefits of public remote electronic access to criminal files were outweighed by the safety and law enforcement risks such access would create. Routine public remote electronic access to documents in criminal case files would allow defendants and others easy access to information regarding the cooperation and other activities of defendants. Specifically, an individual could access documents filed in conjunction with a motion by the government for downward departure for substantial assistance and learn details of a defendant's involvement in the government's case. Such information could then be very easily used to intimidate, harass and possibly harm victims, defendants and their families.

Likewise, routine public remote electronic access to criminal files may inadvertently increase the risk of unauthorized public access to preindictment information, such as unexecuted arrest and search warrants.

The public availability of this information could severely hamper and compromise investigative and law enforcement efforts and pose a significant safety risk to law enforcement officials engaged in their official duties. Sealing documents containing this and other types of sensitive information in criminal cases will not adequately address the problem, since the mere fact that a document is sealed signals probable defendant cooperation and covert law enforcement initiatives.

The benefit to the public of easier access to criminal case file information was not discounted by the Committee and, it should be noted that, opinions and orders, as determined by the court, and criminal docket sheets will still be available through court websites and PACER and PACERNet. However, in view of the concerns described above, the Committee concluded that individual safety and the risk to law enforcement personnel significantly outweigh the need for unfettered public remote access to the content of criminal case files. This recommendation should be reconsidered if it becomes evident that the benefits of public remote electronic access significantly outweigh the dangers to victims, defendants and their families, and law enforcement personnel.

### **Bankruptcy Case Files**

**Recommendation: That documents in bankruptcy case files should be made generally available electronically to the same extent that they are available at the courthouse, with a similar policy change for personal identifiers as in civil cases; that § 107(b)(2) of the Bankruptcy Code should be amended to establish privacy and security concerns as a basis for the sealing of a document; and that the Bankruptcy Code and Rules should be amended as necessary to allow the court to collect a debtor's full Social Security number but display only the last four digits.**

The Committee recognized the unique nature of bankruptcy case files and the particularly sensitive nature of the information, largely financial, which is contained in these files; while this recommendation does provide open remote electronic access to this information, it also accommodates the privacy concerns of individuals. This recommendation contemplates that a debtor's personal, identifying information and financial account numbers will not be included in their complete forms on any document, whether electronic or hard copy (i.e., only the last four digits of Social Security and financial account numbers will be used). As the recommendation recognizes, there may be a need to amend the Bankruptcy Code to allow only the last four digits of an individual debtor's Social Security number to be used. The bankruptcy court will collect the full Social Security number of debtors for internal use, as this number appears to provide the best way to identify multiple bankruptcy filings. The recommendation proposes a minor amendment to § 107(a) to allow the court to collect the full number, but only display the last four digits. The names of minor children will not be included in electronic or hard copies of documents.

As with civil cases, the effectiveness of this recommendation relies upon motions to seal filed by litigants and other parties in interest. To accomplish this result, an amendment of 11 U.S.C. § 107(b), which now narrowly circumscribes the ability of the bankruptcy courts to seal documents, will be needed to establish privacy and security concerns as a basis for sealing a document. Once again, the experiences of the ECF prototype and imaging courts do not indicate that this reliance will cause a large influx of motions to seal. In addition, as with all remote electronic access, the information can only be reached through the log-in and password- controlled PACERNet system.

The Committee rejected the other alternatives suggested in the comment document for various reasons. Any attempt to create levels of access in bankruptcy cases would meet with the same problems discussed with respect to the use of levels of access for civil cases. Bankruptcy cases present even more issues with respect to levels of access because there are numerous interests which would have a legitimate need to



access file information and specific access levels would need to be established for them. Further, many entities could qualify as a "party in interest" in a bankruptcy filing and would need access to case file information to determine if they in fact have an interest. It would be difficult to create an electronic access system which would allow sufficient access for that determination to be made without giving full access to that entity.

The idea of collecting less information or segregating certain information and restricting access to it was rejected because the Committee determined that there is a need for and a value in allowing the public access to this information. Further, creating two separate files, one totally open to the public and one with restricted access, would place a burden on clerks' offices by requiring the management of two sets of files in each case.

### **Appellate Case Files**

**Recommendation: That appellate case files be treated at the appellate level the same way in which they are treated at the lower level.**

This recommendation acknowledges the varying treatment of the different case types at the lower level and carries that treatment through to the appellate level. For cases appealed to the district court or the court of appeals from administrative agencies, the documents in the appeal will be treated, for the purposes of remote electronic access, in the same manner in which they were treated by the agency. For cases appealed from the district court, the case file will be treated in the manner in which it was treated by the district court with respect to remote electronic access.

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